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Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by People for Successful Corean Reunification, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[21 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Child Labour within the DPRK

This statement highlights some particular concerns with regard to child labour in the Democratic People's Republic of Korea. Recently, the U.N. has tightened economic sanctions on the DPRK in response to its nuclear program. Furthermore, the U.N. and countries all over the world have condemned DPRK forced labour abroad. However laudable these progressions are, we want to raise some serious concerns regarding child labour within the DPRK. This issue is still largely unnoticed, yet the children's rights situation within the country is shocking.

Child Labour in the DPRK

In our most recent report, *Unending Toil: Child Labour within North Korea*, we have systematically described the child labour practices in the DPRK using multiple defector testimonies. Although officially DPRK laws prohibit child labour, in practice these laws are not enforced. There are several channels through which children are forced to work, but the education system is the main enforcer. Thus, the abuse of children's rights in the DPRK is systematic and grounded in its educational culture.

In its legislation, the DPRK aims to provide quality education for all its children. However, the educational quality is poor, partly because children are required to work so much. Child labour has its deepest roots in the educational system. It is often disguised by state ideology and presented as a way for children to help their nation.

The most common and invasive form of systematized child labour is the *Agricultural Labour Support*. This refers to mobilizing children to work on farms. As the DPRK is largely an agricultural autarky, the government needs the help of children to produce its own necessities. School-going children are thus required, as part of their school curriculum, to work on farms after school hours for the *Local Agricultural Labour Support*. This usually means that children spend their afternoon working on a nearby farm, harvesting and planting grains. At first, the students are told that it is only temporary, but in reality, they are always required to work. However, there is a difference between urban and rural areas. In rural areas, the burden on children is larger.

Furthermore, once or twice per year high school students are required to leave their school and work on a farm full-time for the *Long-term Agricultural Labour Support*. When the harvesting season arrives, children need to leave their hometown to stay on a farm for a month. During this time, they receive no education and are required to work from dawn to dusk. This is arduous and often harmful to their health and academic development. The work is often extremely hard on the children. In one of the testimonies, a defector, Koo Dong-su, stated "Everyone was very exhausted. I hated this period the most. I cried and told my mom on the phone that I wanted to go back home, but I couldn't help but to stay and work because I didn't have money."

Another form of systematized child labour in the DPRK is the *Children's Initiative*. This refers to assignments given to children by the government, through the education system. The initiative demands children to collect certain items, such as scrap iron, paper, rabbit hide, etc. These items are often hard to collect, and children have to search long and in difficult places to find them. This places them in dangerous situations. Furthermore, all of this is done in their free time. Failure to deliver these items will result in bodily and mental punishments. Besides the *Children's Initiative*, the school also often demands items. The government is supposed to ensure that schools have all things necessary to run smoothly, but as the government fails to do so, the school tasks children to find the necessary products.

Besides item collections and *Agricultural Labour Support*, schools mobilize its children in many more ways to do certain forms of labour. For example, children are expected to help in construction projects. These projects are often dangerous and extremely unsuitable for children. Children also have to participate in mass games, birthday and mourning ceremonies, propaganda campaigns, political events and many other forms of disguised child labour. Parents, teachers and students alike have accepted that this is part of their educational system.

Although the education system provides for most of the child labour, prison camps, orphanages and relief shelters also systematically put children to work. According to the DPRK government, the prison camps do not exist. However, defector testimonies and satellite images show differently. Children in the prison camps are brought into these camps by guilt-by-association and are treated with particular cruelty. The prison camps provide education, but the quality is poor.

Furthermore, children in prison camps are mainly seen as labour resources and used as such. They have to collect items but in far greater amounts than their school-going counterparts. On top of that, there is not enough food in the prison camps, so the children are forced to look for their own food as well. In a testimony, defector Han Chul-min stated: "We lost several classmates from fatal falls or other accidents. I'm sure it was the same in other schools. A lot of children died, but no one cared."

Orphanages provide a place to live for children who have lost both parents. What should be a place of care, is more a place of terror for these children. They are extremely malnourished, receive low-quality education, are abused by their caretakers and, on top of all that, also have to work extremely hard. Relief shelters, which are basically makeshift orphanages, are even harsher. Children do not receive education and instead are required to work full-time. It is not uncommon that children in orphanages, relief shelters or detention centres have to perform manual labour tasks such as brick production or making parts for jewellery.

The DPRK's Fifth State Report to the U.N. Committee on the Rights of the Child

As the DPRK has signed and ratified the 1990 Convention on the Rights of the Child, it had to prepare a report on its children's rights situation It released this report on May 13, 2016. This report sketches a picture of the DPRK providing proper care and rights for its children and describes none of the practices mentioned above. Through many defector testimonies, we can deduct that the DPRK report contains falsehoods. We strongly urge the UN to revise its idea of the children's rights situation in the DPRK and to consider the testimonies we provided.

Recommendations

As becomes clear from our report, children do not enjoy basic human rights in the DPRK. The government is more preoccupied with maintaining its dictatorship that with taking care of its citizens. Due to a serious lack of both material and labour resources, the government needs to employ children to maintain its current position. This violates the children's rights in several ways. Firstly, because the work is arduous and has to be performed during and after school, children do not receive the education they deserve. Secondly, the work performed is often unsuitable for children and places them in dangerous situations. Thirdly, children undergo physical and mental abuse if they fail to comply with the labour required from them.

PSCORE strongly urges the international community to work towards eradicating child labour practices in the DPRK. We believe there are several things that can be done. Firstly, it is vital that the United Nations and its member states strongly demand from the DPRK to end its human rights' abuses. The human rights' issue should be prioritized by countries when making decisions regarding the DPRK. Secondly, the current human rights' situation in the DPRK needs to be communicated to a wider audience. Thirdly, although the DPRK is not one of the member states of the ILO, the ILO should realize how the DPRK systematically ignores the international standards on child labour. Finally, we recommend that, in order for the DPRK to truly improve their human rights' situation, third-party experts should evaluate the progress made.

Currently, there are economic sanctions placed on the DPRK due to the rising nuclear threat. Although these sanctions might prove effective in this area, we fear that they might have negative consequences on child labour. As more economic support is cut off from the DPRK, the government will have to rely even more on children to provide its basic necessities. If we do not pressure the DPRK into improving its children's rights situation, more sanctions will only lead to more exploitation. Humanitarian aid is often ineffective as it does not arrive at the places where it is needed most.

The child labour situation in the DPRK comes from its social structure. The DPRK government promotes an oppressive state ideology which demands children to work for their country. The government and its supreme leader should take responsibility for their actions against children's rights. They need to protect their new generation, not exploit them. We call on all member states to urge the DPRK to respect the rights of its children and to end child labour practices.

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Universal periodic review

Written statement* submitted by the Japan Federation of Bar Associations, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Statement by the Japan Federation of Bar Associations for the UPR outcome of Japan

The Japan Federation of Bar Associations (JFBA) welcomes the positive approach that the Government of Japan took for the third Universal Periodic Review of Japan, by responding interactively to questions raised by each member State, and by including the officers of the relevant ministries in its delegations both at the Working Group session and at the adoption of the final outcomes at the Council.

The JFBA also commends that the Government of Japan proactively made recommendations to other member States during the 3rd cycle of the UPR, and thereby contributed to the development of the UPR system.

With regard to national consultation, there are rooms for improvement including that the Government's report did not reflect the results of the consultation with civil society, and that the Government's report was not disclosed until one month before the Working Group session.

Having said that, some development of the national dialogue was observed since the Working Group session. In February 2018, the JFBA convened a consultation forum on the recommendations made, in which 13 members of the Parliament (Diet) participated, both from ruling parties and opposition parties. On that occasion, substantive dialogue was held among the JFBA, members of the Diet, and the relevant ministries on the acceptance of recommendations and their implementation.

Japan will host Olympics and Paralympics as well as the United Nations Congress on Crime Prevention and Criminal Justice in 2020. Thus, external expectations have been surging toward the improvement of human rights remedies, including through ratification of the Optional Protocols for providing an individual communications system, and the establishment of a national human rights institution. Concurring with business sectors' efforts toward responsible business conduct and investments, internal incentives have also been enhanced to demonstrate human rights developments toward the international community.

Against this backdrop, the JFBA asks the Government of Japan to implement diligently the recommendations accepted, in particular on discrimination, the area to which many recommendations were made, by enacting legislation and by strengthening policy measures. The JFBA will continue to monitor its progress in order to ensure the implementation, and to improve access to remedies.

Regrettably, the Government did not accept recommendations on some important issues including the introduction of the moratorium on death penalty or the abolition of daiyo-kangoku/substitute prison, even though the same recommendations were made at the 1st UPR which took place 10 years ago.

For these issues, with the cooperation of the embassies in Japan, and the Delegation of the European Union to Japan, the JFBA will continue to ask the Government to seriously consider the recommendations in a concrete and time bound manner.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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Please recycle

STATES MUST UNEQUIVOCALLY ANCHOR THEIR HOUSING STRATEGIES IN HUMAN RIGHTS

Amnesty International welcomes the report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (hereafter the Special Rapporteur), on human rights-based housing strategies. The report provides States and other actors with practical guidance on implementing effective housing strategies that are compliant with their human rights obligations.

Among the key principles on human rights-based housing strategies, the Special Rapporteur highlights that the right to housing should be recognized within housing strategies as a legal right, subject to effective remedies.1

Legal Security of Tenure

Amnesty International calls for human rights-based housing strategies to put in place a legal framework that guarantees, at the very least, a minimum degree of security of tenure in order to protect people from forced evictions, harassment and threats. As the Special Rapporteur notes, guaranteeing security of tenure should involve strengthening diverse forms of tenure including rental, informal, individual, and collective.2 Recent jurisprudence on Spain by the Committee on Economic, Social and Cultural Rights has confirmed positive obligations of the state to protect the right to housing including in private tenancy arrangements and even where the eviction is justified.3

Amnesty International has consistently called for the provision of security of tenure, in-situ. Only in exceptional circumstances and after genuine consultation with affected people and application of other safeguards should eviction and resettlement be considered as an option for achieving security of tenure.

However, Amnesty International has found that States have done little to meet their immediate obligation of providing security of tenure and in some cases made it very difficult for people to obtain it. For example, in Lagos, Nigeria, security of tenure remains elusive to the vast majority of the estimated 70% of people in Lagos living in slums or informal settlements. Lagos State land law experts have told Amnesty International that the process of obtaining a minimum degree of security of tenure is cumbersome, lengthy, fraught with corruption and too costly for the urban poor.[4]

Forced Evictions

The Special Rapporteur's guidance on human rights-based housing strategies also states that preventing and halting forced evictions must be considered an immediate and prioritized obligation. Amnesty International welcomes this statement. The organization has documented forced evictions in both developing and developed countries.[5] Regardless of where these occur, it is often some of the most disadvantaged individuals and groups who are forcibly evicted.

For example, Amnesty International has documented forced evictions that the Kenya Forest Service (KFS) has been

1 UN.Doc, A/HRC/37/53, 15 January 2018, available at http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/37/53&Lang=E, p. 16.

2 UN.Doc, A/HRC/37/53, 15 January 2018, available at http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/37/53&Lang=E, para 49 p. 9.

3 See ESCR-Net 'CESCR confirms right to housing applies to private tenancy arrangements', June 2017 https://www.escr-net.org/caselaw/2017/cescr-confirms-right-housing-applies-private-tenancy-arrangements

4 For details, see Amnesty International, 'The Human Cost of a Mega City: Forced Evictions of the Urban Poor in Lagos, Nigeria', 2017 Index number: AFR 44/7389/2017.

5 Amnesty International has documented cases of forced evictions in several countries including in Afghanistan, Angola, Brazil, Cambodia, Chad, China, Egypt, France, Ghana, Haiti, Italy, Kenya, Nigeria, Romania, Serbia and Zimbabwe.

carrying out against the Sengwer Indigenous community in Embobut forest in Kenya. The most recent wave of forced evictions started on 29 December 2017 and according to reports, is still ongoing. The KFS has carried out the forced evictions despite a court injunction of 2013 (renewed on several occasions thereafter) that forbids the eviction or arrest of Sengwer who are resident in the forest, pending the hearing of a petition claiming recognition of the community's constitutional right to land and a halt to evictions. 6

Leaving No One Behind

The Special Rapporteur in her report calls on States to ensure that housing strategies should identify groups that suffer housing disadvantages and should address the particular barriers they face.7 In order to achieve this, and in line with the principle, 'leaving no one behind', in the Sustainable Development Goals, Amnesty International advocates for national and local governments to ensure that housing strategies, plans and policies guarantee genuine participation, and equality and non-discrimination in all phases of planning and implementation. Therefore housing strategies must seek out and commit to reach the most disadvantaged first, including people living in poverty, social, religious, ethnic and sexual minorities, persons with disabilities, people living with HIV/AIDS, older persons, Indigenous peoples, refugees and internally displaced persons and migrants. In most contexts, women, youth and children also rank among the disadvantaged sections of society. They should also include the collection of disaggregated data, and setting and monitoring of indicators and benchmarks.

Amnesty International has found that through acts of commission and omission, governments often fail to ensure that their policies related to housing are accessible to those who are most vulnerable to human rights violations.

For example, in Rome, Italy, Amnesty International found that Roma living in camps are effectively excluded from social housing. Despite their numerous and repeated applications, only a handful of Romani families were recorded as living in some of the 50,000 social housing properties. The prioritization of criteria, within the social housing allocation system, meant that the Roma were effectively barred from equal access to social housing. Amnesty International's recommendations to the Italian authorities included ensuring effective access to social housing by all, including Roma, and that the allocation of social housing is based on need and on principles of non-discrimination, fairness, transparency, accountability and participation.[8]

Access to Essential Services

Amnesty International supports the Special Rapporteur's statement that rights-based housing strategies must ensure that all dimensions of the right to adequate housing are addressed in diverse contexts and each aspect of the adequacy of housing as articulated by the Committee on Economic, Social and Cultural Rights in General Comment 4 carried with it a specific obligation.9

However, Amnesty International has documented in several countries across the world where governments have failed to fulfil these obligations. In Slovenia, continuing discrimination against the Romani people condemned many of them to live in housing without essential services.10 Some municipalities had refused to provide public services to Roma because their settlements are 'irregular' - despite the fact that families have been living there for decades. As a result, some Roma had to travel long distances with jerry cans to get water from petrol stations, cemeteries or polluted streams.

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6 See further, https://www.amnesty.org/en/documents/afr32/7868/2018/en/, http://www.ohchr.org.EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22584 and https://eeas.europa.eu/delegations/kenya/38343/eu-suspends-its-support-water-towers-view-reported-human-rights-abuses_en

7 UN.Doc, A/HRC/37/53, 15 January 2018, available at http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/37/53&Lang=E, para 36 p. 7.

8 For details, see Amnesty International, 'Double Standards: Italy's Housing Policies Discriminate Against Roma' 2013, Index number: EUR 30/008/2013.

9 UN.Doc, A/HRC/37/53, 15 January 2018, available at http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/37/53&Lang=E, para 48.

10 For details, see Amnesty International, 'Parallel Lives: Roma Denied Access to Rights to Housing and Water', 2011, Index number: EUR 68/005/2011.

Amnesty International called on the government of Slovenia to allocate additional and adequate resources to municipalities to support them in regularizing informal settlements, and providing access to services and infrastructure within settlements. In November 2016, Slovenia amended its constitution to guarantee the right to water to all. While this is certainly a welcome development, the extent of its implementation vis-à-vis Roma communities remains to be seen.[11]

Addressing Homelessness

The Special Rapporteur further highlights that housing strategies must eliminate homelessness. A State is seen to be in violation of international human rights law if any significant portion of the population is deprived of access to basic shelter or housing. Addressing homelessness is therefore an immediate obligation.12 Amnesty International has found that instead of tackling the root causes of homelessness, governments around the world are increasingly targeting homeless people with criminal laws and regulations. For example, in Brazil children and adolescents living on the streets are often rounded up and forced into institutions. The dismantling of social programmes, low availability of services and infrastructure dedicated to this age group, and the failure of public officials to follow due process, has led to a further violation of the rights of children in street situations.

Recommendations

Amnesty International calls on the Human Rights Council to urge States to ensure that they anchor their housing strategies in human rights and use the principles and check list prepared by the Special Rapporteur to uphold their commitments in the context of the Sustainable Development Goals and the New Urban Agenda.

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11 See Amnesty International, 'Constitutional right to water "must flow down to" Roma communities' 17 November 2016

12 UN Doc. A/HRC/37/53, 15 January 2018, available at http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/37/53&Lang=E, para 18 p.5.

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Written statement* submitted by the Child Foundation, a non-governmental organization in special consultative status

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Please recycle

Children in Syria

Entering its sixth year of conflict in early 2017, the civil war in the Syrian Arab Republic has continued to rage on in its path of destruction. By the end of 2017, 5.3 million children were in need of humanitarian assistance, 6.1 million people had been forced to relocate, and 5.5 million had fled the country as refugees since the beginning of the war. In this last year alone, there have been numerous confirmed attacks on education and health care facilities, resulting in hundreds of casualties, the majority of which have included civilian women and children. Though this violent situation has slowly begun to improve, more needs to be done in the coming year to prevent the breakdown of ceasefire agreements, to lift the remaining roadblocks preventing maximum humanitarian assistance, and to protect the well-being of children in areas of armed conflict.

One of the most central focuses of humanitarian organizations involved in bringing aid to Syria, health care and the transmission of medical supplies, has played a central role in the efforts of organizations like UNICEF in the last year. Due to the widespread distribution of vaccines, especially for young children, there luckily have been no significant disease outbreaks or confirmed cases of waterborne illnesses during the 2017 year. A huge accomplishment and evidence of continued hard work, this success shows serious improvement in health aid over the last few years. Unfortunately, water access and sanitation has been an issue in recent times, but continuing aid efforts have assisted the situation. In the beginning of last year, disrupted access to water supplies in Damascus quickly led to shortages in the area, but luckily this issue was quickly addressed with the rehabilitation of a main water spring that helped to benefit 490,000 people in the city. Additional infrastructure updates and interventions have helped to provide continued access to safe drinking water, and many of these efforts are expected to continue into the new year. Lastly, health education for caregivers, new mothers, and women of child-bearing age has been of high importance in this region. At both health centers and mobile locations, health and nutrition professionals have worked hard to teach methods for preventing severe malnutrition in young children. Overall, humanitarian efforts in the area of health have seen much growth in the last year which has allowed for a meaningful impact to be made on issues that have caused significant and wide-spread problems in the past. In the coming year, this area could likely benefit from a continued focus on health education and wide distribution of vaccines as a way of maintaining the progress that has been made in recent months.

Important to the future of Syria post-civil war, education is one of the most impactful areas that could use more attention from humanitarian organizations in the coming year. Suffering from the loss of over 150,000 teachers since the beginning of the crisis, the education system in Syria has faced serious setbacks that have left significant gaps. This has severely affected the overall functionality of the system itself. Putting aside obvious threats to the physical locations where learning takes place, one of the biggest barriers to adequately reaching the largest number of students has been the lack of availability of capable and well-trained teachers. The violence that has taken place over the last six years has not only prevented consistency in school attendance, but has also harmed countless school-age students psychologically in such a way that additional support is needed in the learning environment in this area. Efforts to overcome these shortcomings of the education system have been made, and in some cases, have successfully provided students with textbooks and other learning materials through programs like the Back to Learning Campaign, which is no small feat. In this next year, a larger focus should be placed on training teachers in the areas that have the most room for improvement, including psychosocial support. While the conflict continues, it is important to recognize the role that the next generation will likely need to play in rebuilding Syria both physically and politically.

Among the most well-known issues with widely-dispersed affects that this conflict has caused, physical displacement and high numbers of refugees have been the most difficult to manage. Countries bordering Syria have taken in a disproportional number of refugees in relation to non-border countries. But recently, these neighbors have demonstrated a concerted effort to curb their intake in a variety of cruel and unlawful ways. One especially violent example is the fatal shooting of a three year-old child in September of this year during a Syrian family's attempt to cross the Turkish border. Though there is recognition that the burden these countries are taking on is incredibly high, reported responses to this issue have revealed unnecessarily cruel treatment of Syrian refugees. This incident and other facts, like in Jordan alone over 400 refugees were deported by authorities in the first five months of 2017, with an additional 500 choosing to leave on their own for unclear reasons, show that additional attention is still needed for those affected by the civil-

war who have been forced to relocate. The movement from safer areas back to unsafe conditions shows an issue with the management of refugees in other countries. Over the course of the next year, it is important that humanitarian organizations focus additional effort on these displaced people who have not received the attention they deserve from their host countries. There is significant room for improvement in this area, and the best way to approach this is through open communication with Syria's neighbors on a more global scale. In this way, a more effective approach to solving issues relating to the treatment and overall care of refugees can be agreed upon by each party.

Human rights violations and violent attacks have created unavoidable issues for residents of Syria, as well as relief workers attempting to get supplies and volunteers on the ground. Seeming to increase in frequency and degree of damage done, airstrikes carried out by most all parties involved in the conflict have continued to have dramatic consequences for the civilian population. Two specific occasions of such strikes in late March, one of which took place at a school which housed displaced individuals and families, killed over 84 individuals, including 30 children. Additionally, during efforts to recapture Aleppo, there were several reports of helicopters dropping chlorine which demonstrates an unsafe and unnecessary use of chemical weapons. Claims like this and others have shown the level of carelessness adopted by many involved parties, including the United States and the Syrian government. With numerous confirmed attacks including 26 on educational facilities and 107 attacks affecting health facilities and their workers, it is clear that the biggest threat to children in this situation is the unknown. Families who are continually caught in these unwarranted military attacks and other forms of mass violence have developed unhealthy methods of coping with the violence which has in-turn caused other problems. In the last year there has been an increase in child labor, child marriage,

and separation of families. Outside of these threats faced within the family environment, children are also confronted with forced recruitment from violent extremest groups. Out of 300 verified cases of child recruitment, 18% involve individuals under the age of fifteen. Overall, the issue of violence within the country is one that most widely affects civilians, but there is little that seems to be done about it. While humanitarian organizations may not be able to directly affect these situations, it is important that they continue to remain involved with talks of ceasefire at a higher administrative level in order to better represent the individuals who's struggles they understand better than most.

Many of the setbacks that have taken place over the last year have occurred due to a lack of accessibility, administrative obstacles, and a failure of the warring parties to reach a sustainable agreement. First, while some areas of the country, such as Aleppo, have experienced an increase in accessibility for humanitarian groups, simultaneously, other areas have begun to create greater concern. With over 2.9 million Syrian people in what are considered to be hard to reach places, aid has not been as widely accessible as many groups would hope. Though this number is down 1.9 million from last year, there is still much improvement needed. Groups like Hay'et Tahrir at-Sham (HTS) have contributed significantly to this lack of accessibility because of their direct interference in the delivery of humanitarian aid. While many successful efforts have been made in the last year to prevent these sorts of issues through diplomatic channels, not enough has been done. In order to best assist the people of Syria, it is vitally important that agreements on ceasefires and de-escalation zones are continually pursued in such a way that all parties are forced to uphold their promises. The continuous break-down of such agreements has plagued this conflict for far too long and it is time for solid, binding terms to be put in place.

Overall, the past year has brought notable success for humanitarian organizations involved in assisting those most affected by the Syrian conflict. Improvements shown, especially in the area of health care, bring hope for the future if similar efforts can be demonstrated in the development of better education and support for refugees residing in neighboring countries. In all, only time will tell how much longer this violent war will rage on, but hopefully a newly reinvigorated focus on education and the welfare of children will provide citizens of the Syrian Arab Republic with the resources they need to rebuild once a settlement can be reached.

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Technical assistance and capacity-building

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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Please recycle

Human Rights Council should establish an International Investigative Mechanism into human rights violations in Libya

In Libya today, vying factions, militias and armed groups have struggled to gain territory and power, and in the process have divided the country along geographical and ideological lines. Serious violations of international humanitarian law and other violations and abuses of human rights law are committed by all sides with absolute impunity. These include arbitrary detentions, abductions, enforced disappearances, torture and ill-treatment, unlawful killings, indiscriminate attacks and forced displacement.

Libya's domestic judicial system is highly dysfunctional and is unable to provide recourse for victims of human rights violations or bring those responsible for these abuses to justice. Perpetrators of serious human rights abuses continue to operate with absolute impunity without fear of accountability.

Given the scale of impunity and the myriad challenges to the administration of justice, promoting accountability in Libya requires deliberate and coordinated effort, by multiple actors at the national and international levels. As early as February 2016, the High Commissioner called on the Human Rights Council to consider establishing a mandate for an independent expert on Libya. (*See* A/HRC/31/47 ¶ 85(a).) This call has been echoed and supported by Amnesty International and other organizations. To date, however, it has been left unanswered. We call on the Human Rights Council to establish a mandate on Libya, to create an international investigative mechanism tasked to investigate, document and report on the ongoing violations of international human rights law and humanitarian law, with the view of ending impunity and ensuring full accountability.

For example, Mahmoud al-Werfalli, field commander of the Special Forces Brigade Al Saiqa affiliated to the LNA has committed a series of extra-judicial killings. Despite the arrest warrant issued against him by the International Criminal Court (ICC) for alleged war crimes, al-Werfalli has continued to carry out extrajudicial executions as shown in a video of him that circulated on social media on January 241. The footage shows al-Werfalli standing in front of 10 unarmed men blindfolded and lined up on their knees with their hands tied behind their back. Al-Werfalli is then shown shooting a single bullet to the head of each man, after which he continues shooting at the then dead bodies.

In 2017, a number of mass graves were uncovered in Benghazi. On at least four occasions, groups of bodies were found in different parts of the city with their hands bound behind their backs, and in some cases blindfolded with signs of torture and execution-style killing. On October 2017, the bodies of 36 men were found on a deserted road south of the town of al-Abyar, including of a medical student and a 71 year-old Sufi Sheikh who had been abducted two months earlier.

In July 2017, the LNA tightened its siege on the city of Derna in its fight against the Derna Mujahideen Shoura Council, hindering access to food, petrol and medical supplies, resulting in a rapid deterioration of the humanitarian situation in the city. In November 2017, a series of air strikes on Derna killed scores of civilians and injured many more, including children.

In Western Libya on at least nine occasions throughout the last year, militias used explosive weapons with wide-area effects, including rocket propelled grenades, in densely populated civilian areas, causing damage to civilian homes and

1 Amnesty International, *Libya: Special Forces commander apparently filmed committing extrajudicial executions must be handed over to the ICC*, 25 January 2018, available at: https://www.amnesty.org/en/latest/news/2018/01/libya-special-forces-commander-apparently-filmed-committing-extrajudicial-executions-must-be-handed-over-to-the-icc/

infrastructure. These indiscriminate attacks have also caused a number of civilian dead and wounded. In one case, RPGs hit a nearby beach, killing five civilians- two women and three children- from the same family.

The post of Public Prosecutor remains vacant, while attacks and threats against judges and lawyers have stalled the criminal justice system.

ABDUCTIONS AND ARBITRARY DETENTION

Militias, armed groups and security forces affiliated to rival governments are responsible for the abduction and arbitrary detention of thousands of people. Militias carry out abductions with the aim of extracting ransoms from families, collecting detainees for future prisoner swaps, or silencing criticism.2 Since 2014, militias have abducted and unlawfully detained hundreds of people based on opinions, origin, perceived political affiliations or perceived wealth. Journalists, activists and human rights defenders are particularly vulnerable to enforced disappearance in relation to their criticism of the abuses committed by armed groups, or openly opposing political or religious factions.

Migrants, refugees and asylum-seekers have also been subject to widespread and systematic serious human rights violations and abuses, be they at the hands of smugglers, armed groups, or militias and officials alike. It is estimated that as of January 2018, up to 5000 people are held in official detention centres in Libya run by the General Directorate for Combating Illegal Migration (DCIM), a division of the Ministry of Interior of the GNA.3 They are held in conditions of extreme overcrowding, lacking access to medical care and adequate nutrition. Militias and detention guards systematically subject those detained to torture and other ill-treatment, including sexual violence, severe beatings and torture for the purpose of extortion to gain release.4 In addition to these official DCIM centres, armed groups and criminal gangs are running thousands of illicit holding sites throughout the country where they detain and ill-treat migrants and refugees, in a manner similar to those held in official centres, for the purpose of extortion to secure a ransom from their families in exchange for their release, which further feeds the smuggling business in Libya. All those detained, regardless of their status including asylum seekers fleeing persecution, are considered illegal and remain in official or unofficial facilities with no meaningful judicial oversight or effective avenue to challenge the legality of their detention.

CONCLUSION

The dire, and degenerating, human rights situation in Libya has been chronicled by the High Commissioner for Human Rights in numerous reports. (*See, e.g.*, A/HRC/34/42 & A/HRC/31/47). Given its scope and nature, addressing it in any meaningful way requires coordinated action by many entities.

Primary among them is the Libyan authorities. In this regard, we call on authorities in Libya to immediately release detainees held without charge, or charge them with recognizably criminal offences and promptly bring them to trial in proceedings that meet international fair trial standards. Moreover we call on such authorities to build a justice system where those responsible for abductions, enforced disappearances and other crimes are prosecuted and brought to justice. We call on the Libyan authorities to immediately release all migrants and refugees arbitrarily detained by DCIM and to make the necessary legislative changes to decriminalize irregular entry, stay and exit.

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2 Amnesty International, *Libya: University Professor latest in string of victims targeted in epidemic of militia abductions*, 08 May 2017, available at: https://www.amnesty.org/en/latest/news/2017/05/libya-university-professor-latest-in-string-of-victims-targeted-in-epidemic-of-militia-abductions/

3 Amnesty International, *Libya: A year after Italy-Libya migration deal, time to release thousands trapped in misery*, 02 February 2018, available at: https://www.amnesty.org/en/latest/news/2018/02/a-year-after-italy-libya-migration-deal-time-to-release-thousands-trapped-in-misery/

4 Amnesty International, *Libya's dark web of collusion: abuses against Europe-bound refugees and migrants*, 12 December 2017, available at: https://www.amnesty.org/en/documents/mde19/7561/2017/en/

We commend the Libyan authorities for their willingness to seek assistance from the Human Rights Council, and acknowledge the important work of other international entities and processes, including the United Nations Support Mission in Libya and the International Criminal Court. Yet more is needed to secure peace, accountability, and justice in Libya. In this regard, we call on the Council to mandate an international investigative mechanism that would:

- Conduct a thorough investigation into the violations of international human rights and humanitarian law in Libya since 2011 with the view to contributing to ending the prevailing environment of impunity;
- Identify alleged perpetrators of human rights violations and abuses in Libya with the aim to bring these perpetrators to justice;
- Formulate recommendations on steps to be taken towards guaranteeing accountability and preventive measures to avoid future crimes;
- Engage with Libyan authorities and act as the focal point with stakeholders in particular the UN Support Mission, the International Criminal Court and the African Court for Human Rights, in order to provide the support and expertise for the immediate improvement of the human rights situation and the fight against impunity in Libya;
- Present an oral briefing and a written report to the Human Rights Council during its 39th and 40th sessions; and
- Present a written report to the General Assembly, Security Council and other relevant international and regional bodies.

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Human Rights Council
Thirty-seventh session
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[26 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Amnesty International written statement: the Human Rights Council should urge states to implement their human rights obligations related to the environment

Amnesty International welcomes the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the inclusion of Framework Principles (FPs) on human rights and the environment in the report.

Based on the premise that human rights and the environment are interrelated and interdependent, the FPs provide much needed guidance on most human rights obligations of States under international law in relation to the environment and offer practical explanation on how they should be interpreted and implemented. They also recognize the evolving nature of international law and the possibility that States may apply higher levels of protection under national or international law. States must implement the FPs while also abiding by the authoritative elaboration of international law by global human rights treaty monitoring bodies and the International Court of Justice and by their respective regional human rights mechanisms. These sources, taken together, provide a comprehensive statement of international law related to human rights and the environment.

Amnesty International stresses that ensuring a healthy environment is an existential issue for the realisation of human rights. For this reason, the issue must remain central in the work of the Human Rights Council.

Amnesty International also highlights the importance of the implementation of the FPs and other relevant human rights standards in order to address current global environmental challenges with severe impacts on human rights such as climate change and mass extinctions of various animal and plant species that humans need in order to enjoy our rights.[1]

Procedural obligations

Amnesty International welcomes the clear articulation in the FPs of procedural rights that States must respect, protect and fulfil in order to ensure the enjoyment of a healthy environment, including the right to access to information, opportunity to participate in decision-making and access to legal remedies. These rights are of particular importance in order to ensure that environmental decisions reflect the views, needs and rights of those most impacted by them and that human rights violations relating to the environment are effectively remedied.

More specifically, in relation to the right to participation, Amnesty International notes the obligation to "take additional steps to facilitate the participation of women and of members of marginalized communities".[2] This requires an analysis of existing formal and informal structures of participation and organization at the community/local level in order to understand processes that may facilitate or hinder the participation of women, girls and members of marginalised communities, and to develop, where needed, a targeted strategy to ensure their access to information and participation.[3]

Similarly, Amnesty International welcomes the inclusion in the FPs of the obligations to protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters, as well as to protect environmental human rights defenders. The implementation of these obligations is crucial considering the dangers to which those who defend human rights related to the land, territory and the environment are often exposed such as defamation and stigmatization, arbitrary arrest or criminal proceedings under spurious charges, death threats and killings. In many cases, the escalation of attacks is related to social tension leading to violence within communities, generated by a lack

1 Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/34/49, 19 January 2017.

2 Paragraph 26.

3 Amnesty International, 2016. Preliminary observations to the UN Committees on the Elimination of Discrimination against Women's proposed general recommendation on gendered dimension of disaster risk reduction and climate change, http://www.ohchr.org/Documents/HRBodies/CEDAW/GenderRelated/AmnestyInternational.pdf

of adequate participation, genuine consultation and information regarding resource exploitation projects driven both by states and private companies.

Substantive obligations

Amnesty International notes the reference to address transboundary and global environmental harm through international cooperation. In particular, the organization welcomes the clarification that "no state should ever seek to withdraw from any of its international obligations to protect against transboundary or global environmental harm". This reflects the position taken by Amnesty International ahead of the announcement by United States President of his decision to withdraw the United States from the Paris Agreement on climate change.

In addition, Amnesty International believes that states must abide by other aspects of their extra-territorial obligations in relation to the environment. In particular, in line with international law States are responsible for harm that emanates from any place under their jurisdiction. States also have obligations to take steps to the maximum of their ability to prevent and remedy harm that emanates from other locations beyond the State's territory but which affects people located within their jurisdiction.

Amnesty International welcomes the reference to States' obligations to take precautionary measures against environmental harm on the basis that the "lack of full scientific certainty should not be used to justify postponing effective and proportionate measures" to prevent such harm,4 in accordance with principle 15 of the Rio Declaration on Environment and Development. The requirement to address such potential risks to people's human rights has been reflected in the jurisprudence of both national and international courts, including a number of decisions of the European Court of Human Rights, and, most recently, in an advisory opinion of the Inter-American Court for Human Rights.

The FPs include reference to such principle both under FP 11 related to the obligation to establish and maintain substantive environmental standards and under FP 13 which refers to the obligation of international cooperation. Amnesty International believes that such principle provides crucial guidance for the carrying out of prior assessments of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.

Obligations in relation to those who are most vulnerable to environmental harms

Amnesty International also welcomes the inclusion of principles which spell out the obligations towards those who are most vulnerable to, or at particular risk of, environmental harm (FP 14) and specifically towards indigenous peoples and members of traditional communities (FP 15). Amnesty International has documented numerous cases of States' failure to consult with indigenous people and to obtain their free, prior, and informed consent before relocating taking measures that may affect their lands, territories or resources.[5] For example, the several instances of forced evictions of members of the Sengwer community in Embobut forest in Kenya since 2014 in relation to the implementation of an environmental conservation project funded by the European Union show the importance of implementing the obligations detailed in FP 15 and also those included under FP 16 related to the respect, protection and fulfilment of human rights in the action taken by States to address environmental challenges and pursue sustainable development.

The right to a safe, clean, healthy and sustainable environment

The report of the Special Rapporteur also makes the case for the recognition of a human right to a safe, clean, healthy and sustainable environment in a global instrument. Amnesty International strongly supports this call as formal

4 Paragraph 33 (c).

5 See for example Amnesty International, 2017. "A breach of human rights – The human rights implications of the Mount Polley Mine Disaster, British Columbia, Canada", http://www.amnesty.ca/sites/amnesty/files/FINAL_May%2024_Mount%20Polley%20briefing.pdf; Amnesty International, 2017. "A Toxic State – Violations of the right to health of indigenous peoples in Cuninico and Espinar, Peru", http://www.toxicstate.pe/pdf/ToxicStateReportAIPeru.pdf.

recognition would provide a clearer framework for individuals and communities to defend their rights related to the environment and seek accountability for any violations. However, given that this right is already grounded in existing international human rights treaties,[6] the provisions of some regional instruments[7] and the constitutional provisions of more than 90 countries, States should not use the lack of explicit recognition of the right to a healthy environment in a global instrument as a reason to evade their obligations related to the environment based on existing human rights law.

Recommendations to the thirty-seventh regular session of the Human Rights Council

Amnesty International recommends that the Human Rights Council:

- Calls upon States to implement the Framework Principles on human rights and the environment presented in the report of the Special Rapporteur, as well as other aspects of international law, so as to ensure that human rights are central in the planning and implementation of environmental decisions and that the respect, protection and fulfilment of human rights leads to the enjoyment of a safe, clean, healthy and sustainable environment.

- Calls upon the Human Rights Council to continue its engagement on the issue related to human rights and the environment, including by facilitating the recognition of the right to a healthy environment in a global instrument and to renew the mandate of the Special Rapporteur.

6 See art. 7. b of the International Covenant on Economic, Social and Cultural Rights (ICESCR); art. 10(3) art. 12.2of ICESCR; art. 24 of the Convention on the Rights of the Child.

7 Art. 24 of the African Charter of Human and People's Rights; art. 11 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights guarantees; art. 38 of the 2004 Arab Charter on Human Rights.

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Human rights situations that require the Council's attention

Written statement* submitted by the Human Rights League of the Horn of Africa, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[27 February 2018]

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Please recycle

THE ETHIOPIAN GOVERNMENTCONTINUES COMMITTING CRIMES AGAINST HUMANITY WITH IMPUNITY

With the Terror Law Proclamation of 2009, which declared three Ethiopian opposition Political groups- namely the Oromo Liberation Front **(OLF), the** Ogaden National Liberation Front **(ONLF)** and **Ginbit-7 "terrorists",** remaining in effect despite pleas from numerous national and international human rights organizations, the Ethiopian government continued cracking down on whoever protests against its repressive rules. The Proclamation fully contradicts the whole catalogue of human and legal rights stipulated inthe Ethiopian Constitution. Citizens have no freedom to express their views or meet in public, and whoever dares to defy the Proclamation is charged with being a terrorist or affiliated with a terror group, subsequent to which s/he is thrown into jail without the right to bail. As a result, the numbers of political prisoners held in Ethiopian prisons and makeshift sites have reached an unprecedented level, forcing the government to starve other sectors of the economy in order to build new prisons. The number of political prisoners in the country remains secret as the government denies holding any, even though a few weeks back and under pressure from the public, it declared that it would soon release all political prisoners. The promise, however, was not kept as it released only 153 prisoners out of the thousands held in federal government prisons. Prominent opposition party leaders like BekeleGerba, AndargachewTsigie and journalists like EskendirNegahave remained imprisoned.

The judiciary remains as dependent as ever and Court rulings are far from being fair. In most cases, the judges were given orders by authorities in the ruling party to sentence alleged political figures to a certain number of years, although it is evident that the charges were fabricated. In cases where some independent judges dared to release political prisoners on bail, as happened with the case of Mr. BekeleGerba, it was the prison officials, with a link to the ruling party officials, who defied the court ruling and kept the prisoner. At the time of this writing and for almost a year now, Mr. Gerbastill languishes in prison not knowing what the future may hold for him. Some political prisoners who were on the list of those to be released from prisons following the announcement by the government were kept behind, and brought to court where they were sentenced for violations of the norms of the Proclamation on Terror. This is just one indication that the Ethiopian judiciary is completely under the control of the government.

The government is targeting the non-EPRDF member citizens in general, and the youth in particular, who have been fighting for equality and justice for almost a decade now. The citizens, however, have continued with their peaceful uprising for an unprecedented three years in a row since November 2015, unifying the people of all ages and from all corners. During these three years of continuous protests, over 4,000 citizens have been killed, thousands others injured, and unknown numbers forcefully disappeared. The civilian police and the military killed over 700 Oromos on October 2, 2016 alone during the celebration of Irrecha, the Oromo Thanksgiving festival.

After all these cruel actions of the government, the Oromo people didn't give up their demands for equality and justice and continued their peaceful protests. Unable to suppress the uprising, the government declared-on October 8, 2016-a six- month state of emergency which *de jure* suspended all constitutional rights. With a pretext of participating in protests, over 70,000 Oromos were thrown into prison and military camps and kept in inhumane and degrading conditions. Some 30,000 were released, but many Oromos remain detained in unknown locations and without official charges.

Although the government officially admitted that the mass uprising was the result of failure on its part to deliver good governance, it continued arresting and killing civilian demonstrators and ignoring their legitimate demands for equality and justice. It is reported that during the 2017 civilian demonstrations alone in Oromia and Amhara regions, more than 1,000 persons were killed. Since the beginning of 2018, the security forces killed nearly 100 persons during demonstrations in these two regions.

The killings, beatings and imprisoning of the citizens in Ethiopia didn't stop them from demanding equality, justice and freedom. To silence the grievance of the citizens by military force, the government created on November 12, 2017 the so- called **"National Security Council"** led by the Defense Minister who declared *de facto* military rule. Following the decision, the government deployed its military force into the Oromo and Amhara Regional States to effect repression. The **National Security Council-** which is led by the Defense Minister SirajFegessa- has controlled the regional states' police and security activities, paralyzing regional police and security institutions, in violation of article 39(3)1 of the Ethiopian constitution of 1995 which stipulated that "Every Nation, Nationality and People in Ethiopia has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in state and Federal governments".

The Federal government, in its attempt to engage the different ethnic groups (nations and nationalities) against each other and rule them as divided entities, encouraged the Somali Regional government to declare an outright war against the adjacent Oromo people as a result of which nearly one million Oromos were forced to leave their homes and villages. The government, although admitting for the first time in its history that Internally Displaced Persons (IDPs) existed on its territory, deprived the displaced of the right to access food, shelter and water by blocking access roads as well as making them unsafe for humanitarian relief workers. As a result, the million displaced people had to seek permanent settlement in other parts of Oromia, with the help of Oromo Nation and regional authorities without the involvement of the Federal government.

Conditions in Ethiopian prisons remain the same as we last reported in 2017 at the UN Human Rights Council 34th Session. Political prisoners have the right to a reasonable space/room for sleeping, access to daylights, to proper sanitation and family visits as well as meeting with their respective lawyers. In one of the worst correctional facilities in the world, none of these have been afforded. The level of torture, as reported by those who were recently released from these prisons, is simply unbearable. The government continues to deny access to international human rights organizations, the UN Human Rights Special Rapporteurs and the ICRC, whose report could have shed more light on the situations in the prisons.

The economic situation in the country is going from bad to worse. With the "developmental state economic policy" of the government, the few at the top amassed the entire wealth of the nation leaving the population in abject poverty. Graduates of the various universities can hardly find jobs in the country, and as and when they take their frustration to the streets, the security forces are meeting them with live bullets. All in all, the security situation and the physical safety of the youth in the country remain un-secured, resulting in a mass exodus of the entire young generation leaving illegally in search of a better life elsewhere. In doing so, hundreds are being drowned in the Red Sea or the Mediterranean, while some others end up being hostages of human traffickers and organ collectors in the Sinai or the Sahara. Young girls are lured into the criminal world and remain exploited by human traffickers in Middle Eastern countries.

The HRLHA once again renews its calls to the international community to act collectively in a timely and decisive manner – through all available mechanisms of the United Nations in accordance with the UN charter to stop the Ethiopian government's assaults on its own citizens before it is too late. Based on the 2005 World Summit Outcome Document Paragraphs 138 and 139 on the Responsibility to Protect (R2P)2, the international community has the responsibility and the mandate to use appropriate actions, diplomatic, humanitarian and other available means to protect the people who are only demanding their fundamental human rights as recognized by the United Nations. It is not a new practice of the United Nations that when States violate the terms of the social contract they have with their own population, it has always been the responsibility of the international community to step in and save the defenseless

1 Proclamation No. 1/1995 Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia http://www.ethiopianembassy.be/wp-content/uploads/Constitution-of-the-FDRE.pdf

2 Responsibility to Protect (R2P), http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html

civilians from being exterminated, as is the case now in Ethiopia. *When the State is unable or unwilling to protect its population from genocide, war crimes, crimes against humanity and ethnic cleansing,* the international community has the responsibility to intervene.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

DEFENDING THE RIGHTS OF PEOPLE ON THE MOVE

Amnesty International welcomes the report of the Special Rapporteur on the situation of human rights defenders in relation to those acting to defend the rights of all people on the move.1

Attacks on those defending the rights of people on the move have become more commonplace in recent years in the current climate of increasingly negative discourses surrounding migrants, refugees, internally displaced people and stateless people.

Human rights defenders working on the rights of people on the move face the same range of restrictions and attacks as other human rights defenders who experience intersecting forms of discrimination and structural inequality. These range from threats, physical attacks, smear campaigns, stigmatization and harassment through the misuse of the justice system.2 As the Special Rapporteur on the situation of human rights defenders highlights in his recent report: "these defenders, many of whom are themselves people on the move, face a constellation of challenges, arising from both some of the disturbing features of global migration policy and the general trend towards the closing of civic space to human rights defenders".[3]

Amnesty International released its 2017 Annual Report on 22 February 2018. The report highlights grave human rights violations of refugees, migrants and stateless people including those who defend their rights.4

In Mexico, for example, where a record number of asylum applications mostly from Central Americans fleeing violence were received last year, we saw the repeated failure to provide protection to those who need it, human rights defenders providing humanitarian support to migrants and refugees have been subjected to unfounded criminal proceedings and have faced violent retaliation by organized criminal groups.5

The statelessness crisis in the Dominican Republic continues to affect tens of thousands of people of Haitian descent who have been retroactively and arbitrarily deprived of their nationality. In this context, those defending the rights of stateless people are frequently harassed and intimidated, and have been target of smear campaigns.[6]

In countries in Africa, including in Somalia and Central African Republic, protracted conflicts along with recurring humanitarian crises and persistent human rights violations, millions have been forced to flee their homes in search of protection. Millions of refugees hosted by African countries are still facing widespread human rights abuses and have been inadequately supported by the international community.

The dramatic human rights violations and crimes against humanity committed by the security forces against the Rohingya population in Myanmar have forced hundreds of thousands to flee their homes and face uncertain and often violent futures. Two journalists investigating military operations in Rakhine state were arrested last year.7

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1 UN.Doc. A/HRC/37/51, available at http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/51

2 See Amnesty International's reports from 2017 on violations and abuses against human rights defenders globally available at https://www.amnesty.org/en/documents/act30/7270/2017/en/ and https://www.amnesty.org/en/documents/act30/6011/2017/en/

3 UN.Doc. A/HRC/37/51, para. 3.

4 See https://www.amnesty.org/en/documents/POL10/6700/2018/En/

5 See https://www.amnesty.org/en/documents/amr41/7602/2018/en

6 See https://www.amnesty.org/en/documents/amr27/4901/2016/en/

7 See https://www.amnesty.org/en/latest/news/2018/01/myanmar-reuters-journalists-must-be-released/ and https://www.amnesty.org/en/latest/news/2018/02/un-security-council-must-halt-disastrous-march-of-myanmars-ethnic-cleansing-of-rohingya/

Human rights defenders and NGOs defending the rights of those on the move in Europe have also faced campaigns of harassment and intimidation. NGOs who perform search and rescue operations in the Central Mediterranean have been the object of smear campaigns. A new code of conduct adopted by the Italian authorities imposes undue restrictions to the work of these organizations.[8]

In February 2018, a new legislative package tabled to the Hungarian Parliament requires organizations to get national security clearance and a government permit for those that "support migration". Under this legislation, the government would identify NGOs which it deems are 'supporting migration' and NGOs would require to obtain the authorization of the Minister of Interior to perform their activities, which according to the proposal would include campaigning, 'influencing courts', preparing information materials, organising networks and recruiting volunteers with the goal of sponsoring, organising or otherwise supporting the entry and stay of people seeking international protection.9

In the Middle East and North Africa, migrant workers continue to face exploitation and abuse and those defending their rights have been threatened and intimidated. We have seen a deterioration of the crisis in Libya, where migrants and refugees are facing widespread and systematic human rights violations. Up to 20,000 refugees and migrants are held arbitrarily and indefinitely in overcrowded unsanitary detention centres, exposed to torture, rape, forced labour, extortion and unlawful killings at the hands of the authorities and militias who run the centres.10

As stated in the Special Rapporteur's latest report, "[t]he challenges that defenders of people on the move face arise within a broader phenomenon of shrinking space for civil society. [However] certain features of the shrinking civil society space pose particularly large challenges for people on the move and defenders working on their behalf."

The Special Rapporteur has highlighted the characterization of defenders as "foreign agent" that "plays into the discourse that people on the move and their allies represent a seditious threat. [...] Similarly, foreign funding rules often restrict people on the move of access to their own or other resources abroad". Furthermore, the report notes that "in the context of the present report, people on the move as defenders of their own rights have long been denied a right to any speaking position, excluded from political discourse as outsiders and non-citizens. They continue to face threats and violence far in excess of that faced by their supporters and allies. Civil society space has not only shrunk but is nearly closed for people on the move seeking to defend their rights".11

Recommendations to the 37th Human Rights Council

2018 marks the 20th anniversary of the adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. In this context, Amnesty International urges the Human Rights Council to:

1. Reaffirm that protecting human rights is necessary for individuals to live in dignity, and that deepening respect for these fundamental freedoms lays the foundation for stable, safe and just societies;

2. Comply with the recommendations[12] made by the Special Rapporteur on the situation of human rights defenders in his recent report on the situation of those who defend the rights of people on the move, to

8 https://www.amnesty.org/en/documents/eur30/6152/2017/en/;
https://www.amnesty.org/en/documents/eur03/6655/2017/en/; http://www.amnesty.eu/en/news/press-releases/all/eu-draft-code-for-sea-rescues-threatens-lives-1057/#.WhheWVV1_IU

9 https://www.amnesty.org/en/latest/news/2018/02/hungary-new-law-poses-existential-threat-to-ngos/

10 See Amnesty International's reports from 2017 on violations and abuses against human rights defenders globally available at https://www.amnesty.org/en/documents/act30/7270/2017/en/ and https://www.amnesty.org/en/documents/act30/6011/2017/en/

11 See UN Doc. A/HRC/37/51, paras. 23-25, for the full set of recommendations by the Special Rapporteur on the situation of human rights defenders

12 UN.Doc. A/HRC/37/51, pages 17-19.

particular:

a. Take all necessary measures to protect the right to life, liberty and security of people on the move and those who defend their rights;

b. Support the legitimate work done by human rights defenders of people of the move and publicly recognize the role they play in the advancement of human rights.

c. Enable people to promote and defend human rights regardless of their immigration status, including enabling them to exercise their right to freedom of expression, association and peaceful assembly.

d. Ensure that human rights defenders who have been forced to flee their country of origin have the right to seek asylum, and are not returned where they can face serious human rights violations including persecution.

e. Ensure that human rights defenders providing humanitarian assistance to people on the move are not criminally prosecuted or otherwise punished.

f. Ensure that human rights defenders of people on the move can easily access national protection mechanisms and other measures to guarantee their security.

Ensure that visa regimes and other policies and practices do not undermine temporary international relocation initiatives for human rights defenders and fully operationalize polices that provide for humanitarian visas for human rights defenders.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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SRI LANKA MUST PROVIDE A DEFINITIVE TIMELINE FOR IMPLEMENTATION OF RESOLUTION 30/1

Human Rights Council resolution 30/1 on "Promoting reconciliation, accountability and human rights in Sri Lanka", adopted on 1 October 2015, sets out concrete commitments to ensuring truth, justice, reparation and non-recurrence for human rights violations and abuses which took place in Sri Lanka. Council resolution 34/1, adopted on March 2017, further requested the Government of Sri Lanka "to implement fully the measures identified by the Council in its resolution 30/1 that are outstanding". In this written statement, Amnesty International provides an assessment of Sri Lanka's progress in delivering on its human rights obligations and implementing resolution 30/1, including through commitments made at its UPR in November 2017.

Sri Lanka has taken a number of important steps since the adoption of Resolution 30/1, including the ratification in June 2016 of the International Convention for the Protection of All Persons from Enforced Disappearance, the establishment of a Consultative Task Force on reconciliation (CTF) and resultant public consultations and the release of its report, and the passage of the amended Office on Missing Persons Act in June 2017.

However, two and a half years after the adoption of resolution 30/1, Amnesty International is disappointed by the lack of further progress, and in some cases backsliding, on the important commitments made in resolution 30/1 with regard to enforced disappearances; truth, justice and reparation; protection of religious and ethnic minorities and human rights defenders; and the repeal of the Prevention of Terrorism Act (PTA).

Amnesty International welcomes Sri Lanka's reaffirmation of some of the commitments set out in resolution 30/1 during its UPR, including to operationalize the office on missing persons;1 to establish a truth commission,2 an office for reparations and a judicial mechanism with special counsel;3 to review the Prevention of Terrorism Act (PTA),4 in accordance with international law; and to legally recognize the crime of enforced disappearance.5

We are deeply concerned, however, that Sri Lanka has failed to publish a timeline for the implementation of resolution 30/1, and in fact rejected six UPR recommendations calling on it to do so.6 The establishment of a time-bound action plan is vital for victims, survivors and their families in their quest for truth, justice and accountability, and its continued absence sends a very discouraging message to victims and survivors, and the international community, about Sri Lanka's commitment to the full implementation of resolution 30/1.

ENFORCED DISSAPEARANCES

Although Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearances, the commitment to criminalize enforced disappearances7 is yet to be fulfilled, and a Parliamentary debate on a bill criminalizing enforced disappearance, scheduled for July 2017, was postponed without explanation. During the UPR, Sri Lanka committed to criminalize enforced disappearances in national law8 and to ensure that all allegations of enforced disappearances be impartially and effectively investigated by an independent body.9

An Act to establish an Office on Missing Persons (OMP)10 was passed by Parliament in 2016; however, the office is not yet functioning. The Act permits, but does not require, the OMP to forward information indicating individual

1 Report of the Working Group on the Universal Periodic Review, Sri Lanka, A/HRC/37/17, recommendations 116.63, 116.76, 116.77, 116.79, Sri Lanka's voluntary pledges, para 128.
2 A/HRC/37/17, recommendations 116.77, 116.80, 116.87, 116.88 and Sri Lanka's voluntary pledges, para 128.
3 As above.
4 Sri Lanka's voluntary pledges, para 122.
5 A/HRC/37/17, recommendations 116.62, 116.66.
6 A/HRC/37/17, recommendations 117.37-117.43.
7 Resolution 30/1, op para 13.
8 A/HRC/37/17, recommendations 116.62 and 116.66.
9 A/HRC/37/17, recommendation 116.67.
10 In line with resolution 30/1, op para 4.

criminal responsibility to appropriate authorities for further criminal investigation.11 Amnesty International considers it essential that the OMP does forward such information routinely, or that it preserves it until an independent and effective judicial mechanism is established. During the UPR, Sri Lanka committed to allocate sufficient funds and appoint well-qualified independent commissioners to the OMP.12 However, despite the allocation of a budget and advertising for nomination of members, the OMP is yet to appoint members or to commence operations.

DELAYS AND Lack of progress on emblematic cases

As many as 100,000 families13 are demanding truth on the fate of their loved ones. Since 1980, Amnesty International estimates that there is a backlog of between 60,000-100,000 cases of enforced disappearances in Sri Lanka, including but not limited to Sinhalese youth suspected of leftist links, Tamils suspected of links to the LTTE, journalists and human rights defenders.14

- In the Trinco-5 case,15 in which five students were killed by the security forces in Trincomalee in January 2006, twelve officers were arrested in July 2013. They were released on bail in October the same year.16 A further five years later, there is little sign that a thorough, effective and independent investigation has been conducted into these killings. In early January 2018, Law and Order Minister Sagala Ratnayaka indicated that reforms to allow witnesses overseas to give evidence via Skype would ensure progress the case17. However, Amnesty International is concerned that this measure alone is insufficient to address the flaws to date in the investigations or to convince witnesses that it is safe to engage in the process.18
- Prageeth Ekneligoda, a political cartoonist, was forcibly disappeared on 24 January 2010. In August 2015, the police arrested several suspects in connection with his disappearance;19 however, within months they were granted bail,20 and court proceedings against them are still ongoing.

The families of the disappeared have been protesting for over for over 12 months in Vavuniya, Maruthankerny, Mullathivu, Killinochchi and Trincomalee, demanding information from the government. A number of the protesters were granted a meeting with the President on 12 June 2017; however promises made during this meeting, including to release of a "list of persons who surrendered to the armed forces during the final phase of the war",21 have yet to be fulfilled.

ACCOUNTABILITY, TRUTH, JUSTICE AND REPARATIONS

In resolution 30/1, Sri Lanka committed to establish "a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law".22 During the UPR, Sri Lanka recommitted to establish such a mechanism, with a special counsel.23 However, no progress appears to have been made with regard to its establishment.

Review and repeal of the Prevention of Terrorism Act (PTA)

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11 Section 12(1)

12 A/HRC/37/17, recommendations 116.63-64.

13 https://www.amnesty.org/en/latest/news/2017/04/sri-lanka-victims-of-disappearance-cannot-wait-any-longer-for-justice/

14 https://www.amnesty.org/download/Documents/ASA3754972017ENGLISH.PDF

15 https://www.amnesty.org/en/documents/asa37/013/2006/en/

16 https://www.hrw.org/news/2015/11/22/awaiting-justice-trinco-five

17 In a tweet, Minister Ratnayaka said, "We could not proceed with the case as the main witness was overseas and was not in a position to support proceedings. The case is now progressing as new reforms have allowed the use of Skype evidence."

18 https://www.amnesty.org/en/latest/news/2017/04/sri-lanka-victims-of-disappearance-cannot-wait-any-longer-for-justice/

19 https://www.amnesty.org.nz/can-sri-lanka-turn-page-decade-media-repression

20 https://www.upr-info.org/sites/default/files/document/sri_lanka/session_28_-_november_2017/icj_upr28_lka_e_main.pdf

21 https://www.dgi.gov.lk/news/latest-news/1265-president-meets-family-members-of-missing-persons

22 Resolution 30/1, op para 6.

23 A/HRC/37/17, recommendations 116.77, 116.80, 116.87, 116.88 and Sri Lanka's voluntary pledges, para 128.

Resolution 30/1 welcomed the commitment of the Government of Sri Lanka "to review and repeal" the PTA, and "to replace it with anti-terrorism legislation in accordance with contemporary international best practices".24 Moreover, during its UPR, Sri Lanka committed to review the PTA to bring it in line with international standards.25

More than two years after the adoption of resolution 30/1, the PTA is still being applied. Historically, tens of thousands have been detained under the law, many of them for long periods without charge and enduring torture in custody.26 During a recent visit to Sri Lanka, the Special Rapporteur on counter-terrorism was given official figures for those currently charged with offences under the PTA indicating that "of 81 prisoners currently in the judicial phase of their pre-trial detention, 70 had been in detention without trial for over five years and 12 had been in detention without trial for over 10 years".27 The Special Rapporteur concluded that "use of torture has been, and remains today, endemic and routine, for those arrested and detained on national security grounds".28

Fresh commitments were made by Sri Lanka during its UPR to review the PTA, and to bring it in line with international standards.29

Recommendations

Amnesty International calls on the Human Rights Council to:

- Reiterate its call on the Sri Lankan Government to publish a clear timeline for the full implementation of resolution 30/1;
- Reiterate its commitment to overseeing and supporting Sri Lanka's fulfillment of the commitments made in resolution 30/1, until the provisions are implemented in full.

Amnesty International calls on the Government of Sri Lanka to:

- Provide to the Human Rights Council a time bound schedule for the implementation of commitments under resolution 30/1 and to give full effect to its human rights obligations including those set out in that resolution;
- Appoint immediately the members of the Office on Missing Persons and provide all functional, financial and technical support for the expeditious and independent functioning of that institution;
- Enact legislation criminalizing enforced disappearances and implement the International Convention for the Protection of All Persons from Enforced Disappearances;
- Release immediately a complete list of detainees and those who surrendered;

Review and repeal the Prevention of Terrorism Act (PTA), and to replace it with anti-terrorism.

24 Resolution 30/1, para 12.
25 A/HRC/37/17, recommendation 116.52.
26 https://www.amnesty.org/en/documents/asa37/003/2012/en/
27 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21883&LangID=E
28 *Id*
29 A/HRC/37/17, recommendation 116.52.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amuta for NGO Responsibility, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[28 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Amuta for NGO Responsibility Statement

International Complicity in the Palestinian Weaponization of Children Must End

The international community has long ignored the Palestinian weaponization of children in the Arab-Israeli conflict. Ahed Tamimi, a Palestinian teen whose family scripts physical confrontations with Israeli soldiers and then widely disseminates the resulting videos on social media to demonize Israel and glorify "resistance," is a representative example.

The Palestinian Authority, Fatah, Hamas, and other armed factions have routinized the grooming of children from an early age as weapons and soldiers in the Palestinian war against Israel and Jews. Children are taught and encouraged by cuddly animals on Palestinian Authority and Hamas TV to kill Jews. Fatah publishes manuals on how kids can most efficiently attack with stones and knives.1 Terror groups like the PFLP parade combatant-dressed children brandishing knives and guns through the streets of Gaza and the West Bank. Recreation centers and sports tournaments are named after terrorists, including kids who kill. UNRWA schools teach antisemitism and hate, and glorify Palestinian killers and the elimination of Israel.2 Hamas dresses up babies as suicide bombers. Children are encouraged to participate in violent riots, to hurl or slingshot rocks at Israeli cars, to smuggle telephones to terrorists in jail, to carry explosives, and even to stab children and mothers to death in their homes. The Palestinian Authority then rewards this activity by providing salaries to perpetrators greatly in excess of those trying to earn an honest living.3

Tamimi is literally the poster child in this propaganda war. Prior to her attack on the soldiers, Tamimi was filmed stating, "***Whether it is stabbings or suicide bombings or throwing stones, everyone must do his part*** *and we must unite in order for our message to be heard that we want to liberate Palestine."4* These violent sentiments are not surprising. Tamimi's unremorseful aunt, Ahlam, on the United States of America FBI's Most Wanted list,5 was an organizer of the Jerusalem Sbarro Pizza bombing targeting families, which killed 15 and wounded more than 130. In 1993, her uncle, Nizar, murdered and burned Israeli Chaim Mizrahi as part of a Hamas attack.6 Another cousin, Manal, was removed from a UN report in 2017 after the Amuta for NGO Responsibility alerted UN officials to her vile antisemitic and violent social media posts.7 Most importantly, her parents routinely praise terror attacks on social media and have been arrested numerous times for organizing the children of their village to engage in confrontations with the Israeli army. In other words, Ahed's home environment largely mirrors the routine, widespread, and systematic campaign of Palestinian child weaponization promoted by the Palestinian Authority and Hamas.

Despite the Palestinian exploitation and abuse, UN officials such as Rapporteur Michael Lynk; NGOs, like Amnesty International and HRW; and other promoters of anti-Israel BDS (boycott, divestment, and sanctions) campaigns choose to ignore this reality, and instead heroicize this campaign of incitement and recruitment of child combatants.

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1 See Palestinian Media Watch, www.palwatch.org, for many examples.
2 See Aiden Pink, "New Palestinian textbooks encourage violence," *The Forward*, December 4, 2017, https://forward.com/fast-forward/389043/new-palestinian-textbooks-encourage-violence-report/; Impact-SE, "**Reform or Radicalization: PA 2017 Curriculum — A Preliminary Review," October 2017**; UN Watch, "Enhanced Due Diligence: An Examination of Canada's Pledge to Stop UNRWA Teachers from Inciting Jihadist Terrorism and Antisemitism," April 2017.
3 The PA paid more than $350 million in 2017 alone to convicted terrorists. The more violent and serious the crime, the greater the payout. Lahav Harkav, "Palestinian Authority Paid Terrorists Nearly $350 Million in 2017, *Jerusalem Post*, January 9, 2018.
4Jacob Magid, "Military court indicts soldier-slapping teen Ahed Tamimi, her mother," *Times of Israel*, January 1, 2018.
5 https://www.fbi.gov/wanted/wanted_terrorists/ahlam-ahmad-al-tamimi.
6 Sarah Helm, "Israeli settlers fight a losing battle: The murder of a West Bank student highlights the plight of the Jewish religious communities confronting Palestinian rule," *The Independent (UK)*, November 7, 1993.
7 Amuta for NGO Responsibility, "UN Changes Special Rapporteur Lynk's Report Following NGO Monitor Complaint," May 14, 2017, https://www.ngo-monitor.org/press-releases/un-lynk-report-tamimi-ngo-monitor/

While they blast press releases and images of Tamimi around the world, they obscure her family background of terrorism, abuse, and exploitation, and at the same time erase Israeli child victims.

This campaign is often marketed under the catchy slogan of "No Way to Treat a Child," which targets Western governments and calls for "pressur[ing] the Israeli government to end the detention and abuse of Palestinian children." The effort is led by Palestinian NGOs closely linked to the PFLP terror group and antisemitic BDS organizations. Large sums of money and other resources are being invested in this campaign by the UN, the European Union, Japan, and European governments. The images of "poor Ahed Tamimi" on trial are used to amplify the effort.

Most disturbing is the role of UNICEF— which was created to help children around the world. NGO Monitor, a project of the Amuta, has systematically analyzed and detailed this process in our January 2018 report, "UNICEF and its NGO Working Group: Failing Children."8 Among the findings are UNICEF's collaboration with terror-linked NGOs and its refusal to document or report on Palestinian incitement, recruitment, and use of child soldiers. UNICEF OPT's claim that its working group was "**not in a position to document cases of [Palestinian] child recruitment and use of children in armed conflict**" is simply absurd given the presence of several working group members including numerous UN agencies in both Gaza and the West Bank.

Alarmingly, at least two of UNICEF's working group members are linked to the PFLP terror organization. This association perhaps explains the failure of UNICEF and its working group to document the Palestinian weaponization of children. In addition, it is evidence of severe moral and institutional breakdown that UNICEF thinks it is acceptable to include terror-linked NGOs as "human rights" partners on a UN directed and funded project.

Exposing the cynical "No Way to Treat a Child" propaganda requires highlighting the false claims, the willful blindness towards Palestinian child weaponization, and the naming and shaming of the participants, including the UN agencies (UNRWA, OCHA, OHCHR, and UNICEF). In parallel, UNICEF officials and donors, including the European Union, Japanese, and European governments, must be pressed to review funding and move to end this complicity. The individuals and foundations who give generously to UNICEF under the illusion that unlike other UN bodies, this one actually acts morally, should reconsider. If UNICEF officials are seriously concerned about protecting children like Ahed Tamimi, as well as the Israeli child victims in the ongoing Palestinian terror war, they should keep far away from such exploitation.

8 https://www.ngo-monitor.org/reports/unicef-ngo-working-group-campaign-blacklist-idf/

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Statement of the Amuta for NGO Responsibility

UNICEF and its NGO Working Group Fail Children in Israel and the Palestinian Authority

- UNICEF plays a central role in a campaign to have Israel included on a UN blacklist of "grave" violators of children's rights. The list appears as an annex to the UN Secretary-General's annual report on Children and Armed Conflict (CAAC). This political agenda is a primary facet of UNICEF's activities relating to Israel, completely inconsistent with its mandate of "child protection" and from its guidelines for neutrality and impartiality.
- UNICEF-oPt's partners ("working group") for this campaign are radical advocacy non-governmental organizations (NGOs). These anti-Israel NGOs play an integral role in carrying out the campaign and receive substantial funding from UNICEF.
- UNICEF-oPt's NGO partners publish misleading and false reports on the treatment of Palestinian minors involved in attacks and arrested by the IDF, rife with distortions and inaccuracies and devoid of necessary context. These same erroneous and unverified claims are then laundered through a UNICEF database to a variety of UN publications, lending them legitimacy and prominence.
- Many of the NGOs in UNICEF's working group have no capacity in the issues of child protection and welfare. Several of these groups are also contributing to UNICEF's database and publications via the use of unqualified, unprofessional, and untrained volunteers.
- Several of the Palestinian groups – including Defence for Children International-Palestine (DCI-P), which plays a leading role in this campaign – have close links to the Popular Front for the Liberation of Palestine (PFLP) – listed as a terrorist organization by the United States of America, EU, Canada, and Israel. In contrast, UNICEF-oPt states, "UNICEF has a clear policy that is does not fund support (sic) organizations which are listed as terrorist organizations by the United Nations." As part of the systemic anti-Israel bias and antisemitism within UN frameworks, this list deliberately excludes Hamas, the PFLP, Islamic Jihad, and other Palestinian terror groups. In other words, UNICEF appears to place no prohibitions on working with or funding to Palestinian terrorist organizations.
- At the time claims of mistreatment were made and adopted by UNICEF, at least one of the Working Group NGOs had a PFLP "leader" on staff (according to a PFLP announcement). It also appears that he was involved in collecting data for UNICEF's database.
- Perhaps because of these Palestinian terror links, several UNICEF-oPt NGO partners recommended inclusion of the IDF on the CAAC blacklist, but absurdly claimed they lacked sufficient evidence to recommend inclusion of the PFLP or Hamas. Similarly, perhaps the presence of terror-linked NGOs in the working group explains why UNICEF-opt does not document or report on the recruitment and use of Palestinian child soldiers (see below).
- A key component of the UN's Children and Armed Conflict campaign is to end the exploitation and use of children as combatants and child soldiers. Although Palestinian armed groups routinely use children in this way, there is little evidence that UNICEF-oPt funding is devoted towards exposing or ending this practice. In fact, a UNICEF Children and Armed Conflict (CAAC) bulletin admits that "In Gaza, the Working Group was **not in a position to document cases of child recruitment and use of children in armed conflict"** (emphasis added). This admission of an inability to carry out the core mission of its UN mandate in Israel, the West Bank, and Gaza calls into question the necessity and utility of continued funding for the agency in the region.
- Other UNICEF-oPt partners are NGOs that seek to marginalize Israel through BDS (boycotts, divestment, and sanctions) initiatives. One such contributor is the World Council of Churches' EAPPI program, which is heavily involved in church-based BDS and whose non-professional volunteers purport to collect data for UNICEF's database.
- UNICEF's campaign is funded by the EU and its member states, and Japan. Correspondence with some donor states indicates that the governments are unaware of the political and unqualified NGOs that receive their funds and to UNICEF's emphasis on anti-Israel advocacy. In at least one case, UNICEF appears to have misrepresented to the donor government how funds would be and were used. Other donor states refused to answer our inquiries, highlighting the accountability and transparency deficit in UN funding. We commend the government of Canada for its willingness to

extensively engage on the substantive issues and the high level of governmental transparency. In contrast, the governments of Norway, Japan, and Sweden refused to engage or provide substantive information.

- UNICEF-oPt signed a lawfare agreement with the Palestinian Authority seeking $3.4 million over the next five years from international donors to engage "human rights mechanisms…to hold Israel accountable for its obligations under international law."
- UNICEF's reporting on Israel is qualitatively different and more extreme than its reporting on other Middle East countries. Allegations of "widespread and systematic abuse" are meant to echo the definition of crimes against humanity in the Rome Statute of the International Criminal Court. UNICEF does not employ similar language for other conflict zones.
- As noted by one of the NGOs involved, lobbying for inclusion of Israel on the CAAC blacklist would lead to the creation of an official "UN-mandated country task force" on Israel that would provide greater financial and other resources to UNICEF-oPt and its NGO partners. In other words, the advocacy appears to have been motivated by money and access rather than child protection.

RECOMMENDATIONS

Based on the Amuta's findings, we recommend:

To UNICEF International:

- Cease all cooperation with NGOs with ties to terrorist organizations, including those with links to the PFLP.
- Publicly retract and correct inaccurate claims made in UNICEF reporting on Israel. In particular, retract those documents that relied in large part on information sourced from PFLP-linked NGOs and BDS activists.
- Instruct UNICEF-oPt to disband the current working group and reinstate a new working group of impartial humanitarian organizations, professionals, and experts. This process must be conducted transparently and with external oversight.

To Donor Governments:

- Review all funding to UNICEF projects to guarantee that funds are not being distributed to NGOs with ties to terrorist organizations.
- Develop and implement robust funding guidelines for all government spending to ensure that funds are not provided to groups with ties to terrorism or that promote violent rhetoric or antisemitism.
- Review all funding to UNICEF to ensure that it is used to carry out the projects intended by the donor government.
- Cease all funding being used by UNICEF for anti-Israel political advocacy. Ensure that funding is used solely for humanitarian purposes.
- Institute continuous monitoring mechanisms to ensure ongoing compliance with these best practices.

To UN Secretary-General:

- Recognize that UNICEF reports on Israel have been substantially compromised and manipulated for destructive political goals, misrepresent the actual situation, and should be excluded from consideration for the "Annual Report of the Secretary-General on Children and Armed Conflict" and its Annex.
- Reports issued by current NGO members of the UNICEF-oPt Working Group should also be excluded.

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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Amuta for NGO Responsibility, a non-governmental organization in special consultative status

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Amuta for NGO Responsibility

Setting the Record Straight on Detention of Palestinian Minors

Palestinian minors are unfortunately involved in a wide range of offences including murder, attempted murder, and illegal possession of weapons. Key contributing factors are incitement by the Palestinian Authority and recognized terror groups, recruiting of children from the earliest of ages to engage in conflict, glorification of violence and "marytrs", and large monthly payments (that increase based on the severity of the crime) by the Palestinian Authority to prisoners and their families.

A debate that focuses exclusively on Israel, but ignores violent crimes and their proximate causes, encourages impunity and emboldens the exploitation of children by Palestinian actors. It is highly disturbing that UN officials, **notably Special Rapporteur Michael Lynk** and **José Antonio Guevara Bermúdez**, Chair-Rapporteur of the Working Group on Arbitrary Detention, continue to ignore these factors and promote falsehoods regarding the Israeli justice system.

Sources for false claims relating to child dentention:

- Allegations of mistreatment of Palestinian children in detention originate with radical non-governmental organizations (NGOs) that seek to marginalize Israel through BDS (boycotts, divestment, and sanctions) initiatives. A number of these groups are closely linked to the Popular Front for the Liberation of Palestine (PFLP)– listed as a terrorist organization by the United States of America, EU, United Kingdom of Great Britain and Northern Ireland and Canada.
- These organizations publish misleading and distorted reports that are adopted by UN officials and agencies, and included in reports authored by OHCHR, OCHA, and UNICEF. These inaccuracies and unverified claims are then laundered through a variety of additional publications, lending them prominence and credibility. At least one of these organizations has remarked that such efforts would allow the NGO to obtain funding from UN agencies and donor governments.
- For instance, many of the NGOs partner with UN agencies in the West Bank, providing claims that are repeated in UN "Situation Reports" and other publications. UN agencies repeat these claims without verification, even when those claims originate with terror-linked organizations.
- At the time these claims of mistreatment were made and adopted by UNICEF, for instance, one of these NGOs had at least one PFLP "leader" on staff (according to a PFLP announcement).
- In many instances, criticisms of Israeli criminal justice practices lack any legal comparison, contradict international law, and apply a unique and specific standard for Israel alone.

Military courts and domestic law:

- In accordance with international law and Article 66 of the Fourth Geneva Convention, Israel is mandated to establish military courts as part of its obligation to "take all the measures in his power to restore, and ensure, as far as possible, public order and safety."
- Israel is also prevented from extending its domestic legal system over Palestinian citizens of the West Bank. (Hague Regulations Article 43). If Israel were to do so, these same organizations would claim that Israel is illegally annexing the territory.
- As a result of the Oslo Accords, almost all crimes committed by Palestinian minors are under the jurisdiction of the Palestinian Authority. The military courts only have jurisdiction over security offences and limited criminal offences, carried out in Area C.
- This context, which goes unmentioned by NGOs, skews statistics on detention and criminal justice.

Comparative statistics of minors in detention:

- In the absence of any comparative statistics or factual context the average number of prisoners held at any time is an irrelevant statistic.
- In contrast to NGO claims, IDF statistics show that, since 2013 (during a time of heightened violence), between 800-1,000 Palestinian minors are arrested annually in areas under Israeli control. Of those arrested, only 450-505 Palestinian

minors are prosecuted. In other words, on average, out of a population of one million minors (according to the Palestinian Central Bureau of Statistics), less than 85 Palestinian minors are arrested each month, and less than half of them are actually prosecuted.

- In comparison, nearly 90,000 minors aged 10-17 were arrested in England and Wales between April 2015-March 2016, an average of approximately 7,500 each month. Adjusted for population, the rate of arrests of minors in England and Wales is 5.5 times higher than the West Bank, even though it is not in an armed conflict situation.

Israeli military courts established per legal requirements and with consideration of minors:

- Israeli law enforcement regarding Palestinian minors meets all the requirements of "due process," the Convention on the Rights of the Child and Article 68 of the Fourth Geneva Convention.
- The rules of evidence applied by the Military Courts are the same as the rules of evidence applied in the Israeli domestic criminal justice system.
- The rights afforded to suspects and defendants by Israeli law meet all the relevant standards and include:
    - The parents of a minor must be informed of his arrest.
    - A suspect has the right to consult with counsel before being interrogated and this must be explained to the minor in language that he understands.
    - Before interrogating a minor, a police officer must notify the suspect's parents of the intention to interrogate him.
    - The trials of minors are conducted before specially trained and certified juvenile judges.
    - The parents of minors have special standing before the court.
    - Military courts conduct the hearings of minors *in camera*.
    - Before handing down a sentence, the court must take into account, inter alia, the age of the minor.
    - Special statutes of limitations that apply only to the prosecution of minors.
    - The rules of procedure applied by the Military courts are almost exactly the same as the rules of procedure applied in the Israeli domestic criminal justice system.
    - The defendant has the right to be represented by counsel of his choice.
    - While International Law does not require the creation of an Appeals Court, such a court has existed in the West Bank since 1989. Decisions of the Court of First Instance are appealable by right.

Nighttime arrests:

- The overwhelming majority of Palestinian minors arrested during nighttime arrests are resident in area A or B of the West Bank (as defined in the Oslo Peace Accords). In these areas there is no permanent Israeli presence. IDF entry into these areas often results in widespread confrontations by Palestinian armed groups. Accordingly, these arrests are carried out under the cover of dark in order to minimize the potential for violence.
- The recommendation that children must not be arrested at night has no basis in domestic or international law and simply advocates applying a special standard only to Israel.

Age of criminal responsibility:

- The age of criminal responsibility in the West Bank according to the Israeli military law is 12. This is the same age that Israeli domestic law applies to its own citizens.
- The minimum age of criminal responsibility in the UK is 10.

The Amuta for NGO Responsibility is available to brief Member States and UN officials on juvenile justice issues in Israel and the West Bank.[1]

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[1] For more information, see NGO Monitor reports: "UNICEF and its NGO Working Group: Failing Children"; "No Way to Represent a Child: Defense for Children International – Palestine's Distortions of the Israeli Justice System"; "The Origins of 'No Way to Treat a Child'"; "Initial Analysis of B'Tselem/HaMoked Report on Children's Detention in Jerusalem"; "Watchlist: Human Rights Watch Leads Effort to Promote Impunity for Palestinian Terrorists"; "Addameer: The PFLP's Network's Prisoner Advocacy Wing"; "Military Court Watch: Inventing Legal Standards to Attack the IDF".

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Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Amuta for NGO Responsibility, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[28 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Amuta for NGO Responsibility

World Health Organization and NGOs Misrepresent State of Gaza Health

On February 13, 2018, Human Rights Watch (HRW), along with Al Mezan Center for Human Rights, Amnesty International, Medical Aid for Palestinians (MAP), and Physicians for Human Rights-Israel (PHR-I), issued a joint statement condemning Israel's procedures for granting access for Gaza residents to Israel for medical treatment. The groups cite a December 2017 World Health Organization (WHO) document that claims that 54 Gazans died while awaiting approval to travel to seek medical attention in Israel or in the West Bank. The WHO paper does not provide a source for this figure.

This NGO statement inaccurately and disproportionately blames Israel for these deaths, and largely ignores the centrality to this issue of Palestinian terrorism and Israel's resulting legitimate security concerns.

In light of the errors and distortions, the Amuta recommends that policy makers and other officials must independently verify and examine claims by these NGOs prior to reliance on this material.

1. Questions on WHO Data

- Seven of the WHO's monthly updates for January-November 2017 make direct reference to fifteen total Gazans who passed away while waiting to travel outside of Gaza for medical treatment in 2017. The remaining four monthly reports make no mention of similar deaths, strongly suggesting that none occurred. WHO provides no explanation or source as to the large discrepancy between its monthly publications and its annual statistics.
- WHO provides no methodology for claiming that there is direct causality between the deaths and the lack of a permit.
- The monthly figures include at least one incident where the patient was waiting for "financial approval for referral out of Gaza," a function performed by the Palestinian Authority (PA) and not Israel.
- Additionally, the July update refers to a patient who died "awaiting referral out of Gaza," without identifying whether he was seeking treatment in Israel or in Egypt.
- The WHO's December report directly contradicts earlier statements in the UN's July 2017 Gaza funding appeal, which clearly notes permitting issues are the direct result of the PA delaying or suspending payments and referral approvals (see point 3 below).

2. Israel is not Obligated to Approve Travel Requests, yet Facilitates Medical Treatment for Thousands of Gazans Annually

- Sovereign countries – including Israel – have full discretion regarding who is permitted to enter the country. Israel is under no obligation to allow Gazans to enter Israel for any purpose, medical or otherwise.
- Nevertheless, Israel provides thousands of medical permits to Gazans and treats thousands of Gazans in Israeli hospitals annually. According to COGAT, throughout 2016, over 30,000 people from Gaza received medical treatment in Israel; over 7,000 tons of medical supplies were transferred to hospitals and clinics in Gaza. During January-July 2017, 490 ambulances were coordinated for the urgent transfer of patients and their escorts to hospitals in Israel, the West Bank, and abroad. According to a January 2017 report published by the Knesset's Center for Research and Information, there are 60-70 patients from Gaza being treated at Ichilov Hospital in Tel Aviv at any given moment.

- In 2016, 275 medical professionals from Gaza received visas to participate in medical workshops and seminars in Israel. Dozens of physicians from Gaza also participate in training seminars, in addition to foreign physicians coordinating visits to Gaza in order to train local physicians on medical practices and existing medical devices.

3. Intra-Palestinian Fighting and Diversion of Medical Aid and Services by Terrorist Organizations is Primarily Responsible for Gaza's Dysfunctional Health System

- The power struggle between the PA and Hamas has directly harmed Gaza's health infrastructure, leading Palestinians to seek treatment in Israel. As HRW's statement itself mentions in passing, the PA reduced "essential services" to Gaza during 2017, which have reportedly "increased the shortage of essential drugs and delayed the referral of patients for medical treatment outside Gaza. These developments have impacted the availability of essential services and the livelihoods of Gaza's two million residents."
- The UN itself admits fighting between Palestinian factions is responsible for Gaza's health problems in its July 2017 funding appeal: "Delays in the shipment of essential drugs and disposables from the West Bank by the PA's Ministry of Health (MoH), has resulted in some 37% per cent of essential pharmaceuticals and 32% of medical supplies being at zero stock at Gaza's Central Drug Store."
- That same UN document cites the WHO and notes that it is the PA that has been responsible for permitting dealys and not Israel: "The MoH appears to have also recently been delaying or suspending the payment for the referral of patients to medical treatment outside Gaza, as reported by the World Health Organization, with about 1,600 patients currently on a waiting-list at the time this document went to print. This may be resulting in higher mortality rates among waiting patients, including highly vulnerable neonates."
- The PA's reduction of support for Gaza has led to severe electricity shortages at Gaza medical centers.
- Hamas has consistently stolen humanitarian aid intended for Gaza's civilian population, including accusations of theft of medical supplies.
- Hamas has regularly violated international law by commandeering ambulances and placing military command posts within medical facilities. This abuse directly and adversely affects the quality of health in Gaza.
- A committed effort on the part of Hamas to use international humanitarian assistance to develop quality medical care for Gaza residents would remove the need to rely on Israeli facilities. Instead, the terrorist organization has diverted these resources towards enhancing its military capabilities.

4. Palestinians Have Abused Medical Travel Permits to Engage in Terrorist Activity

- In April 2017, two Gazan women were arrested while attempting to smuggle explosives from Gaza into Israel, with the aid of their medical travel permits.
- This incident represents just one episode in a long history of attempts by Palestinian terrorist organization to take advantage of Israeli medical permits in order to launch attacks on Israeli citizens.
- The statement claims that the number of Palestinians that crossed into Israel through the Erez crossing represented 1% of the number who had crossed in September 2000. The fact that this stark decrease corresponds to a decade-and-a-half period that saw the Palestinian suicide bombing campaign, Hamas' violent takeover of Gaza, and extensive rocket fire directed at Israeli civilians leading to multiple military conflicts, clearly proves the decisive role that Palestinian violence has played in limiting access to Israeli medical facilities.

5. It is not Clear that these Deaths can be Attributed Directly to Delayed or Rejected Permit Requests

- Human Rights Watch (HRW) and its other partners imply that had these Palestinians received Israeli medical care, they would have survived. However, this completely disregards their prognosis at the time that they applied for a permit. Moreover, it is unclear how many Palestinians who died before traveling to Israel passed

away as a result of other factors (natural deaths, accidents, crime), unrelated to the medical reason cited for requesting permission to enter Israel.

- It is overly simplistic to claim that these Palestinian would have all recovered from their illnesses had they just been admitted to Israeli hospitals.

6. It is Unclear How Many Individuals Applied for Permits

- As WHO has noted in previous instances, patients who were denied entry into Israel can reapply. Thus, it is likely that the percentage of individual *applicants* who were approved entry into Israel is in fact higher than the number of *applications* that were accepted.

- The December 2017 WHO document does not provide the total number of Palestinian applicants.

The fact that these organizations ignored or downplayed these fundamental issues affecting Palestinian access to health highlights the political motivation at the core of their statement. The one-sided and misrepresented portrayal of complete Israeli fault while ignoring myriad ways in which Palestinian organizations hamper Gazan health is the result of a strong motivation to blame Israel regardless of the facts.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Verein Südwind Entwicklungspolitik, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[1 March 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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IGWG on TNCs on the right way hold corporations accountable to human rights

We as Südwind and the Austrian Civil Society coalition of NGOs and trade unions on the Treaty on transnational corporations and other business enterprises welcome the Report of the third session and especially the discussion on the elements of a Treaty on transnational corporations and other business enterprises (TNCs and OBEs).

In Austria a Civil Society Coalition of NGOs and trade unions supporting the Treaty was formed made up of Attac Austria, DKA-Austria, Bread for the World, Austrian Trade Union Federation, Chamber of Workers, Via Campesina Austria, FIAN Austria, Network Social Responsibilty.

We believe that the elements set the stage for fruitful discussions about the content of the long-awaited international legally binding instrument.
We welcome the Conclusions of the Working Group, particularly:

- Took note of the elements for the draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights, prepared by the Chair-Rapporteur in accordance with paragraph 3 of resolution 26/9 and the substantive discussions and negotiations and the presentation of various views thereof

as well as welcome the recommendations of the Chair-Rapporteur, especially

- to present a draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights, on the basis of the contributions from States and other relevant stakeholders, at least four months before the fourth session of the Working Group, for substantive negotiations during its fourth and upcoming annual sessions until the fulfilment of its mandate;
- to convene a fourth session of the Working Group to be held in 2018 and undertake informal consultations with States and other relevant stakeholders on its programme of work.

We support these elements as they are following on from a credible process during the last years and aim to address the issues needing action and cooperation at international level.

In September 2012 over 5 years ago 254 workers lost their lives and another 55 were injured in the Ali Enterprises Fire Inferno in Karachi, Pakistan sewing our clothes we are wearing daily. In April 2013 in an even more tragic catastrophe 1135 mainly women workers were killed and over 2400 injured when the Rana Plaza building collapsed in Dhaka, Bangladesh. Till today the corporations that produced their clothes in these factories could not be held accountable. Coming from this daily work as human rights NGOs on workers rights violations in the international garment industry and human rights violations by so-called free trade agreements and as trade unions on workers and human rights as well as the ILO conventions we know that it is high time for a binding treaty to hold corporations accountable to human rights.

We welcome the clear references to the recent French legislation on "duty of vigilance" and describing the obligations of TNCs and OBEs with a "preventive" aspect , reinforcing the due diligence approach of the UN Guiding Principles on Business & Human Rights that is of utmost importance to secure and uphold human rights. Also we support the stated objective (para 1.4) to establish and strengthen effective remedy mechanisms so crucial for victims of human rights violations worldwide. We do recommend to clearly frame in the upcoming draft legally binding instrument that TNCs and OBEs means all enterprises and companies operating on and or buying/selling on transnational level as we think here clarification in developing the Elements is needed to ensure that really all business related Human rights violations in complex supply chains with numerous independent supplier companies like in the garment industry are covered.

Throughout the world, support for this treaty is growing, illustrated by the increasingly loud call from affected communities, human rights defenders, and wider civil society, to establish internationally binding and enforceable rules to corporate conduct. Also within Austria and the EU we see there is increased support among academia, civil society organizations, the European and national Parliaments and the wider public.

We urge all members and especially the European Union, and its Member States individually, to actively support the work of the IGWG and the upcoming treaty in line with EU Council Conclusions on EU Priorities in UN Human Rights Fora in 2018 adopted by the Council at its 3598th meeting held on 26 February 2018 stating "the EU will maintain its increasing focus on the protection and promotion of economic, social and cultural rights, as well as continue efforts towards the implementation of the 2030 Agenda for Sustainable Development, through a rights-based approach to realizing the Sustainable Development Goals including the human rights to health, education, food, housing, safe drinking water and sanitation, and decent work, as well as the development and increased coverage of social protection floors, and to closing the gender gap." and calling "to promote accountability for human rights violations and the need for effective remedy for all victims of human rights violations and abuses".

We also ask all states and particularly the European Union and its Member States to launch broad consultations with different government and civil society stakeholders including trade unions and NGOs on the draft legally binding instrument on transnational corporations and other business enterprises to ensure a broad discussion and uptake of issues.

We call for further support in using this historic opportunity for a TNC treaty in a constructive and open spirit and show that we can really act for upholding human rights before high profit and thereby realize the potential of enhancing global human rights standards and a level playing field.